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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: C. Freitas et al. Attorney Docket No.: XANI117198
Application No.: 09/812,073 Group Art Unit: 2838
Filed: March 20, 2001 Examiner: ---
Title: ENERGY CONVERSION APPARATUS

PETITION UNDER 37 C.F.R. § 1.47(a) AND M.P.E.P. § 409.3 FOR FILING WHERE AN INVENTOR REFUSES TO EXECUTE THE APPLICATION PAPERS

Seattle, Washington 98101

November 5, 2001

TO THE OFFICE OF PETITIONS:

We, Christopher Freitas, Robert Dean Gudgel and Amar Kant Nanda (hereinafter "the Applicants"), as Applicants of the above-referenced patent application, hereby petition the Commissioner under 37 C.F.R. § 1.47(a) and M.P.E.P. § 409.3 to accept the Declaration without signature of joint applicant, Robin Wayne Gudgel.

REMARKS

As set forth in M.P.E.P. § 409.03(a), an application with the Declaration having less than all joint inventor's signatures may be accepted if the following requirements are met:

(A) all the available joint inventors (1) make oath or declaration on their own behalf as required by 37 C.F.R. § 1.63 or 1.175 and (2) make oath or declaration on behalf of the non-signing joint inventor as required by 37 C.F.R. § 1.64;

(B) the application must be accompanied by proof that the non-signing inventor (1) cannot be found or reached after diligent effort or (2) refuses to execute the application papers; and

(C) the last known address of the non-signing joint inventor is stated.

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The Applicants submit that all of the available joint inventors have made the oath or declaration on their own behalf as required by 37 C.F.R. § 1.63 or 1.175 and make oath or declaration on behalf of the non-signing joint inventor as required by 37 C.F.R. § 1.64. Attached herewith is a Combined Declaration & Power of Attorney executed by the Applicants. The signature block of the non-signing inventor, Robin Wayne Gudgel is unexecuted. By submission of the Combined Declaration and Power of Attorney and this Petition, the Applicants hereby make a declaration on behalf of Robin Wayne Gudgel.

Secondly, the Applicants submit that the non-signing inventor refuses to execute the application papers. Attached herewith is a Declaration by Darlene E. McDermott, Executive Administrative Assistant of Distributed Residential and Commercial Markets for Xantrex Technology, Inc., which sets forth the facts of Robin Wayne Gudgel's refusal to execute the application papers. On June 12, 2001, Robin Wayne Gudgel was mailed, via certified mail, a copy of the Combined Declaration & Power of Attorney, along with a copy of the application as filed on March 20, 2001, with instructions for its execution and return. See para. 2 of the Declaration of Darlene E. McDermott, attached. A follow-up e-mail was sent to Robin Wayne Gudgel by Darlene E. McDermott on July 5, 2001, inquiring about the documents sent with the June 12, 2001, letter. McDermott Decl., para. 3. In a reply to Ms. McDermott's e-mail, Robin Wayne Gudgel stated that he had reviewed the application and did not wish to be associated with the application. McDermott Decl., para 3. Additionally, in a letter dated July 7, 2001, directed to Ronald L. Pitt, the Vice President and General Manager for Distributed Residential and Commercial Markets for Xantrex Technologies, Inc., Robin Wayne Gudgel stated that he refuses to execute the Declaration & Power of Attorney. McDermott Decl., para. 4. The last known address available for Robin Wayne Gudgel is 14000 Burn Road, Arlington, Washington 98223. McDermott Decl., para. 5.

The Applicants have made repeated attempts to obtain an executed Combined Declaration & Power of Attorney from Robin Wayne Gudgel and have attempted to discuss the situation with him. Robin Wayne Gudgel remains unwilling to execute the Combined Declaration Power of Attorney.

Applicants have been prejudiced in failing to respond to the Notice to File Missing Parts mailed on June 4, 2001. The Applicants must be allowed to continue without Robin Wayne Gudgel's Declaration to avoid further prejudice to the Applicants. Thus, the Applicants

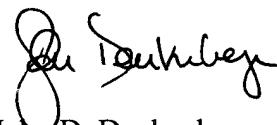
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respectfully request that the Petition under 37 C.F.R. § 1.47(a) be granted and that the above-referenced patent application be deemed complete for examination under 35 U.S.C. 111(a).

If the office has any further questions regarding this petition, it is invited to call the Applicants' attorney at the number listed below.

Respectfully submitted,

CHRISTENSEN O'CONNOR
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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to BOX DAC, Office of Petitions, Washington, DC 20231, on the below date.

Date: 11/5/01



JDD:teb

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